

REMARKS

Applicants have carefully reviewed and considered the Office Action mailed on September 10, 2003, and the references cited therewith. Applicants respectfully request that the claims be reconsider based on the remarks included herein and below.

§102 Rejection of the Claims

Claims 33 and 35-38 were rejected under 35 USC § 102(b) as being anticipated by Peterson, Jr. (U.S. 5,857,020). It is fundamental that an anticipation rejection cannot be sustained where the cited reference fails to teach each and every element or step of the rejected claims. Applicants continue to respectfully assert that the Peterson references fails to teach expressly or inherently the scheduling of a download of content, as is recited in Applicants independent claim 33.

The Examiner has cited numerous reference locations in Peterson for the proposition that Peterson teaches “scheduling a downloaded encrypted multimedia digital content from the digital content management system to the viewing station system.” Applicants have inspected these reference locations and their surrounding contexts and continue to respectfully disagree with the Examiner’s conclusion.

Peterson discusses techniques for delivering encrypted content and techniques for timing the decryption of that content. These are two very well defined steps and aspects of the Peterson teachings. Delivery occurs before decryption in a defined manner, namely via manual delivery. There is no downloading of content in Peterson; the only download occurring in Peterson is the downloading of an encryption key. The content is not downloaded in Peterson. Applicants’ independent claim 33 clearly recites “scheduling a downloaded encrypted multimedia digital content from the digital content management system to the viewing station system.” (Emphasis added). Applicants cannot find a single teaching or suggestion of a teaching in Peterson where the content is scheduled for a download of for that matter where the content is downloaded at all.

The Examiner’s attention is directed to FIG. 1 reference numeral 10, which is defined in Peterson as the storage medium that houses the digital content. Throughout the teachings in Peterson, this medium is described as removable and more specifically as a DVD. *E.g.*, Peterson, Col. 5, lines 6-14. That storage medium is distributed in advance and in bulk to

consumers. *E.g.*, Peterson, Col. 4, lines 15-19 and 24-28. The medium is not downloaded and is clearly not scheduled for downloading.

This makes sense because Peterson is directed towards mass distribution of encrypted media content, which then requires a Peterson defined controller for timing the decryption and release of that content for consumption based on encryption keys acquired by the controller from a Peterson defined authorization center. The media content is neither managed by a server nor distributed by a server and clearly is not scheduled for download from a server. The server in Peterson manages and distributes only encryption keys; the content is manually distributed and not downloaded. In fact, the content in Peterson is actually uploaded from the storage medium to a client; it is not even downloaded to the client. (Emphasis added).

Accordingly, Applicants respectfully disagree with the Examiner's rejections with respect to claims 33 and 35-38. Claim 33 is an independent claim and claims 35-38 depended there from, correspondingly the rejections with respect to claims 35-38 are also no longer appropriate. Applicants respectfully request that the rejections with respect to claims 33 and 35-38 be withdrawn and these claims be permitted to issue.

§103 Rejection of the Claims

Claims 1-13, 17-19, 24, and 26-32 were rejected under 35 USC § 103(a) as being unpatentable over Peterson, Jr. (U.S. 5,857,020) in view of Downs et al. (U.S. 6,574,609). It is fundamental that in order to sustain an obviousness rejection each and every element or step in the rejected claims must be taught or suggested in the cited references. Moreover, any suggested combination of the cited references made by the Examiner must not run contrary to the stated purposes of the cited references and must be compatible with the teachings of the cited references.

Here, the Applicants respectfully disagree with the Examiner's conclusions because neither Peterson nor Downs in isolation or in combination teach or suggest a content delivery network as recited in Applicants' independent claim 1 or "scheduling a download" as recited in Applicants' independent claim 26. Additionally, Peterson and Downs cannot be combined because the proposed combination runs contrary to their teachings and stated purposes.

More specifically and with respect to Applicants' independent claim 1, Peterson does not disclose or teach a content delivery network that downloads content, as relied upon by the Examiner in the present rejections. Peterson does not download content; in fact, Peterson uploads content from a removable storage medium (*e.g.*, DVD). Therefore, Peterson cannot be said to have the content delivery network recited in Applicants' independent claim 1 because Applicants' content delivery network downloads content. Correspondingly, the combination of Peterson and Downs lacks each and every element of Applicants' independent claim 1 and therefore the rejections with respect to claims 1-13, 17-19, and 24 should be withdrawn.

With respect to Applicants' independent claim 26, neither Peterson nor Downs in isolation or in combination teach or suggest "scheduling a download from a movie management to the viewing system the selected digital content" as is recited in Applicants' independent claim 26. It has been clearly shown that Peterson does not download content. Peterson uploads content from a removable storage medium.

Furthermore, Downs is directed to an elaborate decryption and re-encryption process designed to improve security of a media player and designed to secure a content provider's decryption keys. Downs downloads content with a decryption key. Downs does not teach first downloading the content and then separately downloading the decryption key, as is recited as two separate processing steps in Applicants' independent claim 26. Downs needs to do this because the decryption key is used rapidly and then disposed of in Downs in order to preserve its integrity. Therefore, in Downs the content and key come together and the content is immediately decrypted using the key as the content is downloaded. Downs, Col. 78, lines 41-67. Downs continues with an elaborate re-encryption process. The re-encrypted content requires yet another and distinctly different decryption key before the content can be viewed. In fact, the original decryption key sent with the content in Downs cannot be used to view the content. It is an entirely different decryption key that is needed to view the content in Downs.

Accordingly, Downs does not schedule a download in the manner recited in Applicants' independent claim 26. Thus, neither Peterson nor Downs in isolation or in combination with one another teach or suggest the scheduling a download in the manner required by Applicants' independent claim 26. Applicants respectfully request that the rejections with respect to claim 26 and its dependent claims 27-32 be withdrawn and that these claims be allowed.

Additionally, the proposed combination of Peterson and Downs cannot be achieved without running contrary to the stated teachings and purposes of these references. More specifically, Peterson is directed towards distributing media content via mass or bulk mail on removable computer readable media (*e.g.*, DVDs). The content is uploaded in Peterson where an embedded controller of the client cooperates with a remote authorization center to acquire a key needed to decrypt the content. Peterson, Col. 4, lines 28-36 and FIG. 1. The entire teaching of Peterson and architecture would need to be altered if the content was in fact downloaded instead of uploaded. This is so, because the controller in Peterson is in fact Peterson's primary teaching. The controller is a hardware device presumably purchased by the consumer that actually plays the content, such as a customized DVD player. If Peterson downloaded content, then its controller would need to be capable of reading and acquiring the content from a storage medium not defined in Peterson, namely memory or storage of a computing device. There is no teaching in Peterson that suggests how this might be done. Correspondingly, the combination of Peterson and Downs cannot be achieved without rendering Peterson inoperable and in contradiction to its stated teachings and purposes. Similarly, the controller of Peterson cannot be integrated into the teachings of Downs because to do so would require substantial redesign of Downs.

Thus, Applicants assert that Peterson and Downs cannot be combined to render Applicants claims obvious because the combination cannot be done without running contrary to the stated purposes and teachings of each of these references. Accordingly, Applicants respectfully request that the rejections with respect to claims 1-13, 17-19, 24, and 26-32 be withdrawn and that these claims be allowed.

Claims 14-16, 20-23, 25, and 34 were rejected under 35 USC § 103(a) as being unpatentable over Peterson, Jr. (U.S. 5,857,020) in view of Downs et al. (U.S. 6,574,609) and in further view of Hendericks et al. (U.S. 5,798,785). Claims 14-16, 20-23, 25, and 34 are all dependent claims from claims 1 and 33, respectively. Thus, the rejections with respect to these claims should be withdrawn because of the remarks above that were made with respect to independent claims 1 and 33. Applicants respectfully request an indication of the same.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 - EXPEDITED PROCEDURE

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Conclusion

Applicants respectfully request that the Examiner reconsider the present rejections in view of the above stated remarks. Moreover, Applicants submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

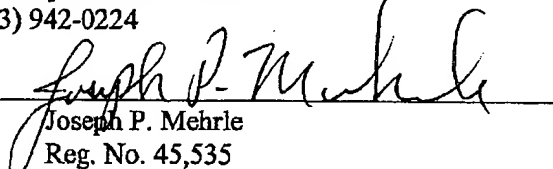
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By their Representatives,

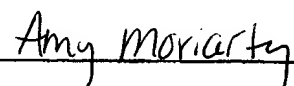
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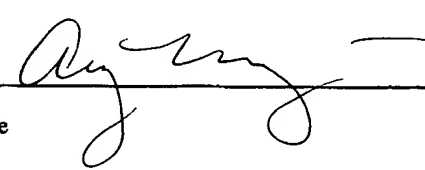
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